

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,
Plaintiff,

v.

Civil Action No. 3:17-01362

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*
Defendants.

CABELL COUNTY COMMISSION,
Plaintiff,

v.

Civil Action No. 3:17-01665

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*
Defendants.

DISCOVERY RULING NO. 8

The undersigned has received and reviewed Defendants' Motion to Compel Discovery Responses by McKesson Corporation, AmerisourceBergen Drug Corporation, and Cardinal Health, Inc. (Dkt. 424), as well as Plaintiffs' Response to Defendants' Motion to Compel Discovery Responses (Dkt. 476) and Defendants' Reply in Support of Defendants' Motion to Compel Discovery Responses (Dkt. 496). Based on the foregoing, as well as the parties' supervised meet and confer conducted on June 12, 2020, the Court DENIES IN PART and HOLDS IN ABEYANCE IN PART Defendants' Motion to Compel Discovery Responses and rules as follows.

A. Motion to Compel City of Huntington Custodial Files

Defendants sought to compel the City of Huntington to produce seven (7) additional custodial files for the following individuals:

1. Paul Matovich, Police Corporal, Huntington Police Department.
2. Stephen Maniskas, Police Corporal, Huntington Police Department.
3. Adrian Rosario, Detective, Huntington Police Department.
4. Greg Moore, Sergeant, Huntington Police Department.
5. Sid Hinchman, Former Private First Class, Huntington Police Department.
6. Charles Shaw, Huntington City Council Member.
7. Ralph Rider, Former Deputy Fire Chief.

Defendants' request for these seven (7) additional custodial files¹ is in addition to the 54 custodial files the City of Huntington had previously agreed to produce. and include

i. Defendants' Request for the Custodial File of Paul Matovich is Moot.

The City of Huntington previously agreed to produce the custodial file for Paul Matovich in consideration of Defendants' identification of him as a witness they intend to depose. *See* Plts' Response, p. 17. For this reason, the undersigned finds Defendants' Motion as to Paul Matovich's custodial file to be moot.

ii. Defendants' Request for the Custodial Files of Officers Maniskas, Rosario, Moore and Hinchman is DENIED.

In light of the City of Huntington's document productions to date, including its production of task force-related documents from the Huntington West Virginia Police Department archive, Drug Unit files, and the custodial files of other Huntington Police Department officers, Defendants' request as to the custodial files for the remaining four (4) Huntington police officers (Stephen Maniskas, Adrian Rosario, Greg Moore, and Sid Hinchman) is DENIED as cumulative and disproportionate to the needs of the case.

iii. Defendants' Request for the Custodial Files of Charles Shaw is DENIED.

¹ Specifically, Defendants have requested the custodial file for five (5) current Huntington police officers (Paul Matovich, Stephen Maniskas, Adrian Rosario, Greg Moore and Sid Hinchman), one (1) former Huntington fire chief (Ralph Rider), and one (1) current Huntington city council member (Charles Shaw).

Charles Shaw was appointed to the Huntington City Council on March 3, 2020. Accordingly, Plaintiffs identified Mr. Shaw in supplemental discovery responses in response to Defendants' request that Plaintiffs any person holding a Huntington City Council position. Defendants' Motion to Compel is DENIED as to Mr. Shaw's custodial file given that the City of Huntington has already produced twelve (12) custodial files of Huntington city council members, as well as the custodial file of the City Clerk (which includes city council meetings, city council meeting synopses, city council agendas, city council files which include documents and materials germane to City Council meetings). Production of Mr. Shaw's custodial file would therefore be cumulative and disproportionate to the needs of the case.

iv. Defendants' Request for the Custodial File of Ralph Rider is held in Abeyance.

Ralph Rider served as the interim fire chief from approximately November of 2011 to March of 2012. The City of Huntington previously agreed to produce six (6) custodial files of current and former Huntington fire department members. The City has also produced various fire department records, including documents from incident reporting databases. Defendants assert that they require Ralph Rider's custodial file to fill a temporal gap in the fire department records. The undersigned holds this issue open, pending Defendants' review of Plaintiffs' custodial overlay to resolve Defendants' perceived time gaps in Huntington fire department records. After review the Defendants shall timely inform the Special Master as to their position.

SO ORDERED.

Dated: June 23, 2020

/s/ Christopher C. Wilkes
Special Master

